

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND  
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.  
*See* Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24

FILED BY CLERK

APR 28 2011

COURT OF APPEALS  
DIVISION TWO

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION TWO

THE STATE OF ARIZONA,	)	2 CA-CR 2011-0015-PR
	)	DEPARTMENT B
Respondent,	)	
	)	<u>MEMORANDUM DECISION</u>
v.	)	Not for Publication
	)	Rule 111, Rules of
GARY EUGENE YODER,	)	the Supreme Court
	)	
Petitioner.	)	
_____	)	

PETITION FOR REVIEW FROM THE SUPERIOR COURT OF PINAL COUNTY

Cause No. S1100CR200100007

Honorable Boyd T. Johnson, Judge

REVIEW GRANTED; RELIEF DENIED

James P. Walsh, Pinal County Attorney  
By Paul W. Ahler

Florence  
Attorneys for Respondent

Gary Yoder

Buckeye  
In Propria Persona

V Á S Q U E Z, Presiding Judge.

¶1 Gary Yoder petitions this court for review of the trial court's denial of his successive petition for post-conviction relief filed pursuant to Rule 32, Ariz. R. Crim. P. We will not disturb this ruling unless the court clearly has abused its discretion. *State v.*

*Swoopes*, 216 Ariz. 390, ¶ 4, 166 P.3d 945, 948 (App. 2007). Yoder has not sustained his burden of establishing such abuse here.

¶2 The procedural history of Yoder’s case was set forth in detail in our 2007 memorandum decision denying relief on his previous petition for review. *State v. Yoder*, No. 2 CA-CR 2007-0154-PR (memorandum decision filed Oct. 12, 2007). We see no reason to revisit that history here. Since that decision issued, Yoder has filed a number of pro se motions and notices in the trial court. In the instant proceeding, the trial court considered these filings “as a whole” in relation to his most recent filing, which Yoder entitled a “Notice of Appeal.” The court noted that if the document were in fact a notice of appeal, it would be “moot” and “untimely.” And it concluded that if it treated the document as a petition for post-conviction relief under Rule 32, Yoder was precluded from relief because all the issues raised either had been or could have been raised in previous proceedings.

¶3 On review, Yoder reurges many of the arguments he made below, primarily asserting “perjury and fraud by the state” at trial; argues the “trial court did not follow [Arizona] law at the trial and did not follow changes in controlling law”; and makes arguments about a separate civil action he brought against one of his criminal defense attorneys, on which this court has already ruled.<sup>1</sup> *See Yoder v. Lachemann*, No. 2 CA-CV

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<sup>1</sup>We note that several portions of Yoder’s filings fail to comply with the rules of criminal procedure. Although they contain extensive citation to legal authority, large portions of them contain no cogent legal argument as to the relation of that authority to Yoder’s case. *See* Ariz. R. Crim. P. 32.9(c)(1) (petition for review must comply with rule governing form of appellate briefs and contain “reasons why the petition should be granted” and either appendix or “specific references to the record”); Ariz. R. Crim. P.

2010-0077 (memorandum decision filed Sept. 2, 2010). We have reviewed Yoder's filings below and the multiple documents he has filed in this court, and, to the extent he presents any cognizable legal arguments, we agree with the trial court's conclusion that Yoder is precluded from raising the issues therein. Each of the issues presented was or could have been raised in a previous proceeding, and Yoder has not established that any of the claims fall within the exceptions to the rule of preclusion. *See* Ariz. R. Crim. P. 32.2. Thus, although we grant the petition for review, we deny relief.

/s/ Garye L. Vásquez  
GARYE L. VÁSQUEZ, Presiding Judge

CONCURRING:

/s/ Peter J. Eckerstrom  
PETER J. ECKERSTROM, Judge

/s/ Joseph W. Howard  
JOSEPH W. HOWARD, Chief Judge

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31.13(c)(1)(vi) (briefs must contain argument and supporting authority); *see also State v. Bolton*, 182 Ariz. 290, 298, 896 P.2d 830, 838 (1995) (insufficient argument waives claim on review); *State v. French*, 198 Ariz. 119, ¶ 9, 7 P.3d 128, 131 (App. 2000) (summarily rejecting claims not complying with rules governing form and content of petitions for review), *disapproved on other grounds by Stewart v. Smith*, 202 Ariz. 446, 46 P.3d 1067 (2002).